

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL NO.
19-10081-IT

UNITED STATES OF AMERICA

v.

GORDON ERNST, DONNA HEINEL,
WILLIAM FERGUSON, and JOVAN VAVIC

ORDER AND
FINAL STATUS REPORT

February 8, 2021

KELLEY, U.S.M.J.

Defendants had a final status conference today, February 8, 2021. The court enters the following order.

Discovery, other than that which is due to be produced closer to trial, is complete.

No defendant will raise a defense of insanity or public authority.

Assuming the trial is held on a half-day schedule, the government estimates its case-in-chief will take approximately three to five weeks; defendants' cases will take approximately two weeks.

The parties are not in agreement concerning the date by which defendants must produce reciprocal discovery and will take this matter up with Judge Talwani at the pretrial conference. They also are not in agreement concerning the timing of expert disclosures and will take this matter up before Judge Talwani.

If there are additional discovery matters to be addressed, defendants will file discovery motions by July 15, 2021, and the government will have until August 15,

2021, to respond. The same schedule will apply to any further motions by defendants under Fed. R. Cim. P. 12(b).

With the agreement of the parties, this court finds and concludes, pursuant to the provisions of 18 U.S.C. § 3161(h)(8) and Section 5(b)(7) of the Plan for Prompt Disposition of Criminal Cases in the United States District Court for the District of Massachusetts (Statement of Time Limits Adopted by the Court and Procedures for Implementing Them, Effective December 2008), that the interests of justice, i.e., for defendants and the government to continue preparing the case, outweigh the best interests of the public and the defendants for a trial within seventy days of defendants' arraignment.

Accordingly, it is hereby ordered that the Clerk of this Court enter excludable time for the period of February 8, 2021 to the date the parties appear before the District Court under the Speedy Trial Act.¹

¹ The parties are hereby advised that under the provisions of Rule 2(b) of the Rules for United States Magistrates in the United States District Court for the District of Massachusetts, any party may move for reconsideration by a district judge of the determination(s) and order(s) set forth herein within ten (10) days after receipt of a copy of this order, unless a different time is prescribed by this court or the district judge. The party seeking reconsideration shall file with the Clerk of this Court, and serve upon all parties, a written notice of the motion which shall specifically designate the order or part thereof to be reconsidered and the basis for the objection thereto. The district judge, upon timely motion, shall reconsider the magistrate's order and set aside any portion thereof found to be clearly erroneous in fact or contrary to law. The parties are further advised that the United States Court of Appeals for this Circuit has indicated that failure to comply with this rule shall preclude further appellate review. See Keating v. Secretary of Health and Human Services, 848 F.2d 271 (1st Cir. March 31, 1988); United States v. Emiliano Valencia-Copete, 792 F.2d 4 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1st Cir. 1980); United States v. Vega, 678 F.2d 376, 378-379 (1st Cir. 1982); Scott v. Schweiker, 702 F.2d 13, 14 (1st Cir. 1983); see also Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985).

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CHIEF UNITED STATES MAGISTRATE JUDGE